

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10

11 CARLOS HERNANDEZ OLIVERA,  
12 Plaintiff,  
13 vs.  
14  
15 MICHAEL J. ASTRUE,  
16 Defendant.

CASE NO. 09-CV-1558 JLS (RBB)

**ORDER: (1) ADOPTING REPORT  
AND RECOMMENDATION;  
(2) DENYING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT; (3) GRANTING  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

(Doc. Nos. 12, 14, 15)

17  
18 Presently before the Court are Plaintiff's motion for summary judgment (Doc. No. 12),  
19 Defendant's motion for summary judgment (Doc. No. 14), and Magistrate Judge Brooks's report and  
20 recommendation recommending that the Court grant Defendant's motion and deny Plaintiff's motion  
21 (Doc. No. 15).

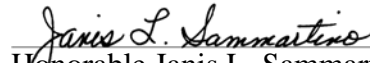
22 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district court's  
23 duties in connection with a magistrate judge's report and recommendation. The district court must  
24 "make a de novo determination of those portions of the report to which objection is made," and "may  
25 accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate  
26 judge." 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 673–76 (1980);  
27 *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). However, in the absence of timely  
28 objection, the Court "need only satisfy itself that there is no clear error on the face of the record in

1 order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note (citing *Campbell*  
2 *v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

3 Here, Plaintiff has failed to timely file objections to Magistrate Judge Brooks’s report and  
4 recommendation. Having reviewed the report and recommendation, the Court finds that it is thorough,  
5 well reasoned, and contains no clear error. Accordingly, the Court hereby (1) **ADOPTS** Magistrate  
6 Judge Brooks’s report and recommendation, (2) **DENIES** Plaintiff’s motion for summary judgment,  
7 and (3) **GRANTS** Defendant’s motion for summary judgment. This Order concludes the litigation  
8 in this matter. The Clerk shall close the file.

9 **IT IS SO ORDERED.**

10  
11 DATED: January 14, 2011

12   
13 Honorable Janis L. Sammartino  
14 United States District Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28